UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/761,374	01/16/2001	Brian J. Deen	13768.156	5333

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ART UNIT	PAPER NUMBER
2134	

DATE MAILED: 09/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>03 July 2006</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1,2,4-11,13-21 and 23-29</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1,2,4-11,13-21 and 23-29</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

1.   This Office Action is in response to Applicant's amendment filed on July 3, 2006.
Claims 3, 12 and 22 have been canceled. Claims 1,2, 4-11, 13-21 and 23-29 are
pending.

Response to Arguments

2.   Applicant's remarks on the amended claim 1 and remarks have been fully
considered. However, in light the following interpretation of the cited prior art, Examiner
maintains the rejection. Gupta teaches, "…a request for information from a client is sent
to a server using a connectionless protocol such as UDP. If the requested information
satisfied a policy for return by the connectionless protocol, the response is sent that
way" (Gupta ['786], Abstract). The phrase "satisfied a policy for return by the
connectionless protocol" is interpreted as to verify that the client's network system
requirement corresponds with the server's network system via the connectionless
protocol, this meet the amended claimed limitation of the determining step. This portion
of the cited prior art also make obvious the newly added claim 27. In claim 27 where
Applicant recites that the request of transmitting via connectionless protocol is made
using connection-oriented protocol. Gupta {'786] teaches "a request for information
from a client to sent to a server using a connectionless protocol such as UDP…If no
response is received at all after a certain number of tries, the client will try a connection
using a connection oriented protocol". This is only echo at what is already well known in
the art that communication using connectionless protocol even thought is less costly but

also has a draw back of not very reliable due to the fact that air traffic or environment

elements may interfere the data transmission. Therefore, it would have been obvious

that the request be made with connection-oriented protocol to ensure that request is

received. In claim 28, Applicant recites the request using connectionless protocol is

performed some time before the notification of an event might occur. By sending the

request via connectionless protocol to the server and "if it satisfied a policy for return by

connectionless protocol, the response is sent that way" and the client further teaches

that if no response is received, a connection oriented protocol is used to send out the

request (see Gupta ['786], Abstract). By doing so Gupta is testing the client's network

system to see if the connectionless protocol will delivered requested message. Even if

Applicant would have contended that the combination of Gupta ['786] and ['384] does

not teach this element of using a connectionless protocol to request before the

notification of an event might occur. One of ordinary skill in the art would have agreed

that the benefit of Gupta ['384]'s system of providing server event notification as it

occurs so that critical information may be delivered to client without delay. Making

request using connectionless protocol before the notification of an event might occur

would have been obvious so that it is ensure that the client network system is equipped

to receive the information when the notification occurs. In claim 29, the request is made

using connectionless protocol when a change in a network configuration is detected

wherein the changed is at least one of removal or configuration of a firewall. Gupta

['786] teaches the UDP/TCP fall back and further teaches TCP SYN/ACK to establish

connection. Providing that connectionless protocol that sent UDP packets is not as

reliable as connection oriented protocol sending out TCP with SYN/ACK to establish

connection, it would have been obvious to modify Gupta ['786] to use connection

oriented protocol to first establish connection through SYN/ACK and fall back to

connectionless protocol if the firewall is down and TCP packets can not be delivered.

Claim Rejections - 35 USC § 103

3.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-2, 4-11, 13-21 and 23-29 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Gupta et al. (U.S. Patent No. 6,704,786, hereinafter ['786]) in view of

Gupta et al. (U.S. Patent No. 6,763,384, hereinafter ['384]).

In respect to claim 1, Gupta ['786] discloses a network system including a server

system and a client system, so as to provide notification in a manner preserving the

processing capacity of the server system and the client system, and preserving

bandwidth on the network system, the method comprising:

an act of the client system sending a request to the server system, wherein the

request is that the server system transmit a packet of data to the client system using a

connectionless protocol, wherein the connectionless protocol does not require a session

be established between the client system and the server system in order for

communication to occur between the client system and the server system; an act of the

client system attempting to receive a packet of data from the server system, wherein the

packet of data is sent using the connectionless protocol; an act of the client system

requesting that notifications be sent using the connectionless protocol, if the attempt to

receive the packet of data is successful; and an act of the client system requesting that

notifications be sent using a connection oriented protocol, if the attempt to receive the

packet of data is not successful, wherein the connection-oriented protocol establishes a

session between the client system and the server system in order for communication to

occur between the client system and the server system (see Gupta ['786] Abstract-first

and second approach, col. 2, lines 6-18, col.5, line 65-col. 6, line 42). *Gupta further*

teaches an act of the client system determining based on the act of attempting to

receive a packet of data from the server system, whether or not the client system can

receive notification, generated as the result of receiving a return of the requested

information, from the server system using a connectionless protocol (see Gupta ['786]

Abstract, "...a request for information from a client is sent to a server using a

connectionless protocol such as UDP. If the requested information satisfies a policy for

return by the connectionless protocol, the response is sent that way").

Gupta ['786] does not disclose but Gupta ['384] discloses the server system

monitors the occurrence of events, sends notification to the client system after one of

the monitored events occurs (see Gupta ['384], Abstract). It would have been obvious to

one of ordinary skill in the art at the time the invention was made to combine the

teaching of Gupta ['786]'s client requesting information to the server using

connectionless or connection protocol with Gupta ['386]'s teaching of a notification

server monitoring and notifying client as event occurs for the benefit of providing client

real-time event when it occurs (see Gupta ['384], col. 1, lines 25-34).

In respect to claim 2, Gupta ['786] and Gupta ['384] disclose the method as

recited in claim 1, wherein the act of the client system requesting notifications be sent

using a connection-oriented protocol, further comprises an act of the client system

attempting to establish a connection to the server system using the connection-oriented

protocol (see Gupta ['786], col. 6, lines 7-21).

In respect to claim 3, Gupta ['786] and Gupta ['384] disclose the method as

recited in claim 2, wherein the act of the client system requesting that notification be

sent using a connection-oriented protocol, further comprises:

An act of the client system polling the server system at time interval to check for

data associated with the occurrence of events; and an act of the client system

requesting the data associated with occurrence of events be transmitted to the client

system (see Gupta ['384], col. 1, line 55-col. 2, line 10).

In respect to claim 4, Gupta ['786] and Gupta ['384] disclose the method as

recited in claim 1, wherein the attempt to receive the packet of data is not successful if

the packet of data is not received within a prespecified period of time (see ['786], col. 6,

lines 53-67).

In respect to claim 5, Gupta ['786] and Gupta ['384] disclose the method as recited in claim 1, wherein the connection-oriented protocol is the Transmission Control Protocol (see Gupta ['786], col. 2, lines 5-17).

In respect to claim 6, Gupta ['786] and Gupta ['384] disclose the method as recited in claim 1, wherein the connectionless protocol is the User Datagram Protocol (see Gupta ['786], col. 2, lines 5-17).

In respect to claim 7, Gupta ['786] and Gupta ['384] disclose the method as recited in claim 1, wherein the act of the client system requesting that notifications be sent using the connectionless protocol comprises an act of making art express request that notifications be sent using the connectionless protocol (see Gupta ['786], col. 2, lines 5-28).

In respect to claim 8, Gupta ['786] and Gupta ['384] disclose the method as recited in claim 1. Gupta ['786] does not disclose wherein the server is configured to, by default, send notifications using a connectionless protocol absent any instruction to the contrary, wherein the act of the client system requesting that notifications be sent using the connectionless protocol comprises an act of abstaining from making an express request thereby impliedly requesting that notifications be sent using the connectionless protocol. However, Gupta ['786] teaches connectionless protocol is the first choice for

the client's requesting information from the server. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to implement Gupta ['786]'s teaching of client's requesting information from the server using connectionless protocol as the first choice to be set as a default for the benefit of reducing network overhead.

In respect to claim 9, Gupta ['786] and Gupta ['384] disclose the method as recited in claim 1, wherein the client system resides in a private network protected by a firewall, wherein communications using the connectionless protocol are blocked by the firewall from entering the private network (see ['384], Fig. 5, col. 9, line 55-col. 10, line 9).

In respect to claims 10 and 20, the claimed limitations are similar to claim 1. Therefore, claims 10 and 20 are rejected based on the similar rationale.

11, 13-19   21, 23-25
In respect to claims 11-19 and 21-25, the claimed limitations are similar to claims
2, 4-9
2-9. Therefore, claims 11-19 and 21-25 are rejected based on the similar rationale.

In respect to claim 26, the computer program product as recited in claim 20, wherein the computer-readable comprises one or more physical storage media (see Gupta, ['786], col. 5, lines 1-8).

In respect to claim 27, Gupta ['786] and Gupta ['384] discloses the method of claim 1 where in the act of the client sending a request to the server system, wherein the request is that the server system transmit a packet of data to the client using a connectionless protocol comprises sending a message using a connection-oriented protocol (see Gupta, ['786], Abstract).

In respect to claim 28, Gupta ['786] and Gupta ['384] discloses the method of claim 1, wherein the act of the client system sending a request to the server system, wherein the request is that the server system transmit a packet of data to the client system using a connectionless protocol is performed at some time before the notification of an event might occur (see Gupta, ['786] Abstract).

In respect to claim 29, Gupta ['786] and Gupta ['384] discloses the method of claim 1, Gupta ['786] teaches the UDP/TCP fall back and further teaches TCP SYN/ACK to establish connection but does not disclose wherein the act of the client system sending a request to the server system, wherein the request is that the server system transmit a packet of data to the client system using a connectionless protocol is performed when a change in a network configuration is detected, wherein the change is at least one of removal or reconfiguration of a firewall. However, providing that connectionless protocol that sent UDP packets is not as reliable as connection oriented protocol sending out TCP with SYN/ACK to establish connection, it would have been obvious to modify Gupta ['786] to use connection oriented protocol to first establish

connection through SYN/ACK and fall back to connectionless protocol if the firewall is

down and TCP packets can not be delivered.

Conclusion

4.   Applicant's amendment necessitated the new ground(s) of rejection presented in

this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37

CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Tongoc Tran whose telephone number is (571) 272-

3843. The examiner can normally be reached on 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Jacques Louis-Jacques can be reached on (571) 272-3962. The fax phone

number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TT

September 7, 2006

NASSER MOAZZAMI
PRIMARY EXAMINER

9/11/06